



**Minutes for Meeting of
Thursday, November 18, 2004**

Item-1: Call to Order

Chairwoman Dorothy Smith called the meeting to order at 5:00 p.m.

Item-2: Roll Call

Present – Chairwoman Dorothy L .W. Smith, Vice Chairwoman Dorothy Leonard, Commissioners April Riel, Karen Thomas-Stefano , Greg Vega, and Larry S. Westfall

Staff – Executive Director Stacey Fulhorst, Deputy City Attorney Dave James, Legal Assistant Steve Ross, Senior Investigator Lauri Davis, and Executive Secretary Janet MacFarlane

Excused – Commissioner Charles H. Dick, Jr.

Item-3: Reporting Results of Closed Session

A. Chairwoman Smith re-reported the results of the Closed Session Meeting of September 9, 2004.

Item 1: Conference with Legal Counsel (1 Potential Matter)

In re: San Diego Ethics Commission Final Audit Report: Re-Elect Donna Frye

Motion: To accept the audit report and take no further action

Moved/Seconded

Vote: 4 to 2 (Leonard/Westfall voting nay)

Excused: Vega

Item 2: Conference with Legal Counsel (3 Potential Matters)

Case No. 2004-24 – In re: Gregory Diethrich – Alleged Failure to File Economic Disclosure Report

Motion: Ordered a Probable Cause Hearing and authorized the issuance of a Probable Cause Report and Draft Administrative Complaint. Hearing scheduled for Wednesday, November 10, 2004, at 3:00 p.m.

Moved/Seconded

Vote: Unanimous

Excused: Vega

Case No. 2004-43 – In re: Alleged Failure to File Financial Disclosure Report

No reportable action.

Case No. 2004-17 – In re: Alleged Misuse of City Position for Personal Benefit.

Motion: Dismiss

Moved/Seconded

Vote: 4 to 2 (Westfall/Leonard)

Excused: Vega

B. Chairwoman Smith re-reported the results of the Closed Session Meeting of October 14, 2004.

Item 1: Conference with Legal Counsel – In the Matter of Gregory Deithrich
– Case No. 2004-24

Rescheduled the Probable Cause hearing in regard to the alleged failure of Gregory Diethrich to timely file a Statement of Economic Interest. Hearing rescheduled to Thursday, December 2, 2004, at 1:30 p.m.

Item 2: Conference with Legal Counsel (2 Potential Matters)

Case No. 2004-50 – In re: Alleged Disclosure of Confidential Information

Motion: Initiate Investigation

Moved/Seconded

Vote: Unanimous

Excused: Thomas-Stefano

Case No. 2004-53 – Alleged Illegal Campaign Contribution

Motion: Recuse Commissioner Dick

Moved/Seconded

Vote: Unanimous

Abstained: Dick
Excused: Thomas-Stefano

Motion: Initiate Investigation
Moved/Seconded
Vote: Unanimous
Recused: Dick
Excused: Thomas-Stefano

Item 3 : Conference with Legal Counsel (2 Potential Matters)

Case No. 2004-43 – In re: San Diego Police Officers Association Political Action Committee; C. April Boling - Alleged Failure to Properly File Campaign Disclosure Statement

Motion: Approve Stipulation
Moved/Seconded
Vote: Unanimous
Excused: Thomas-Stefano

Case No. 2004-49 – Alleged Failure to Properly File Campaign Disclosure Statement

No reportable action.

C. Chairwoman Smith reported the Closed Session action of the meeting of October 28, 2004.

Item 1: Conference with Legal Counsel (2 Potential Matters)

Case No. 2004-56 – In re: Alleged Illegal Campaign Contribution

Motion: Initiate Investigation
Moved/Seconded
Vote: Unanimous
Excused: Riel, Thomas-Stefano, Vega

Case No. 2004-54 –In re: Alleged Failure to Disclose Reportable Gift

Motion: Not proceed with Investigation
Moved/Seconded
Vote: Unanimous
Excused: Riel, Thomas-Stefano, Vega

Item 2: Conference with Legal Counsel (2 Potential Matters)

Case No. 2004-49 – In re: Alleged Failure to Pay Vendor Debt

No reportable action.

Case No. 2004-50 – In re: Alleged Disclosure of Confidential Information

No reportable action.

- D. Chairwoman Smith reported the results of the Closed Session Special Meeting of November 10, 2004.**

Item 1: Personnel Matter, pursuant to California Government Code section 54957

Discussion of applicants for Commission's General Counsel position.

No reportable action.

- E. Chairwoman Smith reported the results of the Closed Session Special Meeting of November 17, 2004.**

Item 1: Personnel Matter, pursuant to California Government Code section 54957

Interview of applicants for Commission's General Counsel position.

No reportable action.

Item-4: Approval of Commission Minutes

APPROVAL OF COMMISSION MINUTES OF OCTOBER 28, 2004

The Commission trailed this item to its next regularly scheduled meeting.

Mr. Mel Shapiro questioned the reporting results regarding Case No. 2004-53.

Item-5: Non-Agenda Public Comment

None.

Item-6: Commissioner Comment

None.

Item-7: Executive Director Comment

Executive Director Fulhorst reported the following:

1. Status of Ethics Commission General Counsel position.
2. Formal and information advice being provided regarding legal fees and post-employment restrictions.
3. Acknowledgement of the support provided by the City Attorney's staff.

Item-8: Deputy City Attorney Comment

None.

Item-9: Closed Session Reporting Practices

In order to provide timely reporting of closed session actions, Executive Director Fulhorst recommended that at the end of the Commission's closed session meeting, the Commission adjourn into open session and report the action taken.

Motion: Adopt proposed reporting procedures
Moved/Seconded: Thomas-Stefano
Vote: Unanimous
Excused: Dick

Item-10: Lobbying Ad Hoc Committee

Chairwoman Smith confirmed that Commissioners Thomas-Stefano and Vega would continue as members of the ad hoc committee. The ad hoc committee meetings will begin in January 2005.

Mr. Mel Shapiro spoke to both Items 10 and 11. He objected to the ad hoc committee meetings being closed to the public.

Item-11: Audit Ad Hoc Committee

Commissioners Riel and Westfall agreed to serve on the ad hoc committee with Chairwoman Smith. Meetings are anticipated to begin in January 2005.

Item-12: Adjournment to Closed Session

Chairwoman Smith adjourned the meeting to Closed Session at approximately 5:30 p.m. She stated the Commission would reconvene into Open Session following the conclusion of Closed Session in order to report any action taken during the closed session portion of the meeting.

Reconvene to Open Session

Chairwoman Smith called the meeting back into open session at approximately 6:15 p.m.

Reporting Results of Closed Session Meeting of November 18, 2004

Chairwoman Smith reported the results of the Closed Session Meeting of November 18, 2004.

Item 1: Conference with Legal Counsel (6 Potential Matters)

Case No. 2004-57 – In re: Alleged Failure to File Campaign Statement and Failure to Include “Paid for By” on Mass Mailer

Motion: Initiate Investigation
Moved/Seconded
Vote: Unanimous
Excused: Dick

Case No. 2004-58 – In re: -Alleged Illegal Campaign Contribution

Motion: Initiate Investigation
Moved/Seconded
Vote: Unanimous
Excused: Dick

Case No. 2004-59 – In re: - Alleged Failure to File Campaign Statement and Alleged Failure to Include Proper Disclosure on Mass Mailing.

Motion: Initiate Investigation
Moved/Seconded
Vote: Unanimous
Excused: Dick

Case No. 2004-60 – In re: Alleged Failure to Obtain Contributor Information

Motion: Initiate Investigation
Moved/Seconded
Vote: Unanimous
Excused: Dick

Case No. 2004-61 –In re: Alleged Failure to Obtain Contributor Information

Motion: Initiate Investigation
Moved/Seconded
Vote: Unanimous
Excused: Dick

Case No. 2004-62 – In re: - Alleged Failure to Properly Identify “Paid for By” on Mass Mailer

Motion: Initiate Investigation
Moved/Seconded
Vote: Unanimous
Excused: Dick

Item 2: Conference with Legal Counsel (4 Potential Matters)

One item was withdrawn from the agenda.

Case No. 2004-23 – In re: Kevin DeFreitas, Failure to Timely File Statement of Economic Interest

Motion: Approve Stipulation
Moved/Seconded
Vote: Unanimous
Excused: Dick

Case No. 2004-31 – In re: Stephen M. Redfearn, Failure to Timely File Statement of Economic Interest

Motion: Approve Stipulation
Moved/Seconded
Vote: Unanimous
Excused: Dick

Case No. 2004-49 – In re: Friends of Dick Murphy, Failure to Pay Vendor Debt within Prescribed Time Frame and Failure to Timely Return Improper Contributions.

Motion: Approve Stipulation
Moved/Seconded
Vote: Unanimous
Excused: Dick

Adjournment

The meeting adjourned at approximately 6:20 p.m.

Dorothy L. W. Smith, Chairwoman
Ethics Commission

Janet MacFarlane, Executive Secretary
Ethics Commission

THIS INFORMATION WILL BE MADE AVAILABLE IN ALTERNATIVE FORMATS UPON REQUEST.